

**Introduced by Senator Leno**

February 18, 2011

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An act to add Section 1569.686 to the Health and Safety Code, relating to residential care facilities for the elderly.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 897, as introduced, Leno. Residential care facilities for the elderly.

Existing law, the California Residential Care Facilities for the Elderly Act, provides for the licensure and regulation of residential care facilities for the elderly by the State Department of Social Services. Existing law authorizes the director to take enforcement action, including, but not limited to, actions to suspend or revoke a license and to impose civil penalties for violations. Under existing law, a violation of these provisions is a crime.

This bill would enact the RCFE Residents Foreclosure Protection Act of 2011 which would, with certain exceptions, require the licensee of a facility to notify the department and the State Long-Term Care Ombudsman in writing within 2 business days of specified events or obtaining knowledge of events, and would authorize the department to initiate a compliance plan, noncompliance conference, or other appropriate action upon receipt of the notification.

This bill would require the licensee of a facility, with certain exceptions, to notify the department, the State Long-Term Care Ombudsman, and all residents, applicants, and, if applicable, their legal representatives, of other specified events, and would require the department to initiate a compliance plan, noncompliance conference, or other appropriate action upon receipt of this notice.

By expanding the definition of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known, and may be cited, as the  
2 RCFE Residents Foreclosure Protection Act of 2011.

3 SEC. 2. The Legislature finds and declares all of the following:

4 (a) There are currently approximately 8,000 residential care  
5 facilities for the elderly (RCFEs) in California.

6 (b) The vast majority of RCFEs are located in single-family  
7 dwellings, with a mortgage on the property.

8 (c) The best interests of the residents of RCFEs requires  
9 procedures to ensure that they are notified and protected whenever  
10 their home is subject to a foreclosure or other event indicating  
11 significant financial distress.

12 (d) Therefore, it is the intent of the Legislature in enacting this  
13 act to establish procedures to protect RCFE residents by providing  
14 them and the state with information when an RCFE is suffering  
15 foreclosure proceedings or experiencing financial distress.

16 SEC. 3. Section 1569.686 is added to the Health and Safety  
17 Code, to read:

18 1569.686. (a) Within two business days of any event, or  
19 obtaining knowledge of any event, described in subdivision (b),  
20 the licensee of a residential care facility for the elderly shall notify  
21 the department and the State Long-Term Care Ombudsman in  
22 writing of the event. This notification may be provided by  
23 telephone facsimile, overnight mail, or by telephone with a written  
24 confirmation within five calendar days after the telephone call.  
25 Upon receipt of the notification, the department may initiate a  
26 compliance plan, noncompliance conference, or other appropriate  
27 action.

28 (b) Any of the following events requires notification pursuant  
29 to subdivision (a):

1 (1) Failure to make one or more mortgage, lease, or rental  
2 payments on the property within 30 days of the due date.

3 (2) A utility company has sent notice of intent to terminate a  
4 utility on the property. For the purposes of this paragraph, “utility  
5 company” means a provider of electricity, gas, or water services.

6 (3) A financial institution refuses to honor a check or other  
7 instrument issued by the licensee to its employees for a regular  
8 payroll due to insufficient funds.

9 (c) A licensee shall notify the department, the State Long-Term  
10 Care Ombudsman, all residents, and, if applicable, their legal  
11 representatives, in writing, within two business days, and shall  
12 notify all applicants for potential residence, and, if applicable, their  
13 legal representatives, prior to admission, of any of the following  
14 events, or knowledge of the event:

15 (1) A notice of default, notice of trustee’s sale, or any other  
16 indication of foreclosure is issued on the property.

17 (2) An unlawful detainer action is initiated against the licensee.

18 (3) The licensee files for bankruptcy.

19 (d) Upon receipt of the notice required pursuant to subdivision  
20 (c), the department shall initiate a compliance plan, noncompliance  
21 conference, or other appropriate action.

22 (e) A licensee who fails to comply with this section shall be  
23 liable for immediate civil penalties in the amount of one hundred  
24 dollars (\$100) for each day of the failure to provide notification  
25 required in this section. The total civil penalty shall not exceed  
26 two thousand dollars (\$2,000). If a resident is relocated without  
27 the notification required by this section, and suffers transfer trauma  
28 or other harm to his or her health or safety, the department may  
29 also suspend or revoke the licensee’s license and issue a permanent  
30 revocation of the licensee’s ability to operate or act as an  
31 administrator of a facility anywhere in the state. Suspension or  
32 revocation proceedings pursuant to this subdivision shall be  
33 conducted in compliance with Section 1569.51.

34 (f) For purposes of this section, “property” means the land or  
35 building in which a residential care facility for the elderly is  
36 located.

37 (g) This section shall not apply to licensees of residential care  
38 facilities for the elderly that have obtained a certificate of authority,  
39 as defined in paragraph (5) of subdivision (c) of Section 1771, to

1 offer continuing care contracts, as defined in paragraph (8) of  
2 subdivision (c) of Section 1771.

3 SEC. 4. No reimbursement is required by this act pursuant to  
4 Section 6 of Article XIII B of the California Constitution because  
5 the only costs that may be incurred by a local agency or school  
6 district will be incurred because this act creates a new crime or  
7 infraction, eliminates a crime or infraction, or changes the penalty  
8 for a crime or infraction, within the meaning of Section 17556 of  
9 the Government Code, or changes the definition of a crime within  
10 the meaning of Section 6 of Article XIII B of the California  
11 Constitution.